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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,040	01/30/2004	Robert Cantwell	NPUS-P015	7947
38077	7590	03/17/2006	EXAMINER	
PATRICK W. RASCHE ARMSTRONG TEASDALE LLP ONE METROPOLITAN SQUARE, SUITE 2600 ST. LOUIS, MO 63102-2740			WILKENS, JANET MARIE	
		ART UNIT		PAPER NUMBER
				3637

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/769,040	CANTWELL, ROBERT	
	Examiner Janet M. Wilkens	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on Jan 5, 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 7-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 7-26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 24-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 24, it is unclear whether or not the tent is to be claimed in combination with the eve. The preamble of the claim is only directed to the eve/subcombination ("eve for a tent..."), while the body of the claim positively claims the tent and eve/combination (e.g. "frame positioned with respect to said fabric enclosure").

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7-12, 14-19, and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Lundblade (4,285,355). Lundblade teaches a tent (Fig. 17) comprising: a fabric enclosure (26) forming a plurality of walls and defining an interior; a frame (41-56) positioned with respect to the enclosure and configured to support the enclosure; eve portions (57,58) coupled to the frame and extending outwardly from first and second walls of the plurality of walls; and a cover (28) coupled to the frame and the eve portions

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and configured to cover at least a portion of the enclosure inherently protecting the walls of the enclosure from excess rainfall, sunlight and ultraviolet degradation. The frame includes first frame members (41, 42) and second frame members (42,49,50; 43,51,52; 42,53,54;43,55,56) and the enclosure includes a roof panel (29). The eves and first frame members are coupled together via coupling devices (39,40).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lundblade (4,285,355). As stated above, Lundblade teaches the limitations of claims 7 and 17, including tent eve portions. For claims 13 and 20, Lundblade fails to teach that the portions are curved. The examiner takes Official notice that curved tent frame members, either via flexibility or made permanently curved, are well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the eves of Lundblade so that they are curved, for aesthetic purposes, to help direct the rain toward the ground, etc.

Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lundblade (4,285,355). Lundblade teaches a tent (Fig. 17) comprising: a fabric enclosure (26) forming a plurality of walls and defining an interior; a frame (41-56)

positioned with respect to the enclosure and configured to support the enclosure; eve portions (57,58) coupled to the frame and extending outwardly from first and second walls of the plurality of walls; and a cover (28) coupled to the frame and the eve portions and configured to cover at least a portion of the enclosure inherently protecting the walls of the enclosure from excess rainfall, sunlight and ultraviolet degradation. The frame includes first frame members (41,44) and second frame members (42,49,50; 43,51,52; 42,53,54;43,55,56) and the enclosure includes a single section roof panel (29). The eves and first frame members are coupled together via coupling devices (39,40). For claim 24, Lundblade fails to teach that the roof is made of two sections. However, it would have been obvious to one having ordinary skill in the art at the time of the invention to use two sections to construct the roof of Lundblade, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman* 168 USPQ 177, 179. Note: if the roof sections are attached parallel the width of the entire roof panel, the frame members 44, 41 would extend along the width of the respective roof section and each section would be attached to each other as well as to a respective side wall.

#### ***Response to Arguments***

There are no arguments to respond to at this time.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

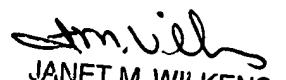
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkens  
March 15, 2006

  
JANET M. WILKENS  
PRIMARY EXAMINER  
